IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.88 OF 2004

The State of Maharashtra. ... Applicant.
Versus.
Nikender Jaychand Barman @ Bangali. ... Respondent.

Ms.Sangeeta D.Shinde for the Applicant.

CORAM : ABHAY S. OKA, J.

DATED : 10th June, 2005.

P.C.:

1. Heard the learned A.P.P. for State. The challenge is to the order dated 28th October 2003 passed by the learned Additional Chief Metropolitan Magistrate by which the Respondent/Accused was discharged of the offence punishable under section 326 of the Indian Penal Code. The learned Magistrate has observed that F.I.R. is not lodged by the injured but but by a friend who has not witnessed the occurrence of the crime as per his own statement. The learned Magistrate has held that the Accused was not shown to the injured throughout the investigation and he was shown only to the formal complainant. The formal complainant, even according to his own statement, was not an eye witness to the occurrence of the crime. The learned Magistrate has rightly held that the identification of the accused by the said formal complainant is of no relevance at all. The learned Magistrate has held that no evidence has been collected regarding confirmation of identity and

therefore, the material collected and produced is insufficient to frame a charge. In view of the said finding recorded by the learned Magistrate, no case is made out for interference in a Revision Application.

The Revision Application is accordingly rejected.

Judge.